

1
2
3
4
5
6
7
8
9
10
11
12

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL CLARK,

2:09-CV-141 JCM (PAL)

Plaintiff,

V.

OFFICER GUERRERO,

Defendant.

ORDER

14 Presently before the court is plaintiff Michael E. Clark's motion to set this matter for trial.
15 (Doc. #95). The attorney general has filed an opposition. (Doc. #99).

16 This court has previously intimated its view that this matter was not yet ready for trial, as the
17 docket did not reflect that any discovery had taken place. Recent filings by the parties have
18 confirmed this inclination. The attorney general's opposition to the motion requesting a trial date
19 represents that very little discovery has taken place. Furthermore, Mr. Clark has filed a motion
20 seeking to compel discovery, stating that he has been wholly unable to receive any discovery from
21 the attorney general. (Doc. #100).

22 As the parties apparently agree that discovery is not complete (indeed, it has yet to begin),
23 this court finds that the case is not ripe for trial. Accordingly, the court denies plaintiff's motion for
24 a trial date.

Likewise, because discovery has not yet begun in this case, Mr. Clark's motion to compel is denied as premature. The procedurally tortured path of this litigation has resulted in a three-year old case that has yet to complete the pleading stage. The initial error, which was compounded later,

1 was the attorney general's seeking an extension of time to file a responsive pleading and later filing
2 a responsive pleading. *See* docs. #3 and #8. By doing so, the attorney general rendered any
3 screening order by the court superfluous, and thus no screening order was entered.

As discovery has not yet commenced, there is no discovery plan or scheduling order governing the parties' discovery obligations. Accordingly, the motion to compel discovery is premature. The court will refer this matter for screening to determine whether a responsive order is required, and only then will discovery commence.

8 || Therefore,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for a
10 trial date (doc. #95) be, and the same hereby is, DENIED.

IT IS FURTHER ORDERED that plaintiff's motion for discovery (doc. #100) be, and the same hereby is, DENIED.

IT IS FURTHER ORDERED that this matter be referred to Magistrate Judge Peggy A. Leen for screening of the amended complaint (doc. #88).

15 || DATED May 2, 2012.

Xem C. Mahan
UNITED STATES DISTRICT JUDGE